Assistant) Commissioners' Courts, in grades, each grade known by the value limit of its jurisdiction. Appeals from the first grade are to the Commissioner, the others to the District Court.

Below these come, in Regulation Provinces, the Courts of Munsifs, and in Non-Regulation Provinces the Courts of Munsifs and of Tahsildars, with limited powers and in two grades.

There may be Small Cause Courts under a special Act, with power of summary trial and no appeal. Military Courts of Request are also separate.

The appellate jurisdiction here generally indicated will be considered more in detail at a later stage.

SECTION II.—THE CIVIL SUIT.

§ 1.—*Where the Suit is filed.*

The Procedure Code rules, regarding the institution of suits in the various C ourts, may now be considered. The general rule is (section 15) that every suit must be instituted in the Court of the lowest grade competent to try it. As this might, however, cause an undue influx of work into certain Courts the local Acts usually give powers to the District Court to distribute work.

Under section 25 of the Code also, the High Court and the District Court have special powers of withdrawing cases from Subordinate Courts and hearing them themselves, or referring them for hearing to any other Courts in their jurisdiction.

§ 2.—*With reference to Locality.*

As regards *locality* (subject to the general rule in section 15), suits for immovable property, or for compensation for damage to immovable property, and for movable property under attachment or distraint, must be brought in the Court within whose local jurisdiction the property is situate. (Section 16.)

And in all other suits the action is brought (section 17)—

(*a*) when the *cause of action arises ;*

(*b*) or where *all* the defendants, at the time of commencement of the suit, actually and voluntarily reside (not where

they are in prison or unlawfully detained, *e.g.*) or carry on business, or personally work for gain;

(*c*) or where one or more of the defendants so resides, &c., and the other defendants either acquiesce, or the Court gives leave.

If a person permanently dwells at one place and has a temporary lodging at another, he is held to dwell at both places in respect of any cause of action arising at the place where he has a temporary residence.

If a Company or Corporation has a sole or principal office in British India, and also subordinate places of business, it dwells at the former, except in cases arising at the latter place, where, for the purposes of a suit, it is held to reside also at the latter.

The illustrations to the section (17) in the Code should be studied.

In cases in which *immovable* property is situated all in one district, but still in the jurisdiction of different Courts, or if it is in different districts, in cases in which a suit is capable of being brought in either of the Courts, and the defendants can show cause for its being tried in another Court, the sections 19 to 24 may be consulted. These details need not be given in the text.

§ 3.—*Several Plaintiffs and Defendants.*

The Code now goes on to consider the questions that arise in the very common case of there being several plaintiffs and several defendants. All may not have the same degree of interest, or the same degree of responsibility, yet in some cases it is right that they should be joined in the same suit, and in others it is necessary that the suit should be separate. Plaintiffs may very generally be joined (section 26), and an error in suing the right plaintiff may be amended by leave of the Court (section 27), so all defendants may be joined (section 28). It is a preliminary question (section 32) to settle whether particular parties have been rightly or wrongly included. No person can be added as a *plaintiff* or next friend of a plaintiff without his consent.

Any person can *apply* to be made a party on either side as the case may be.

All questions of this nature are to be taken up at the *earliest opportunity*, and *must* be so before the first hearing of the actual issues. They are held to be *waived* if not so taken. (Section 34.)

§ 4.—*Appearance by Agent.*

"Recognized agents" and pleaders (under the Legal Practitioners' Act of 1879) can always appear for the parties, but the Court can order a personal appearance. (Section 36.)

"Recognized agent" is defined by section 37. I shall not go into details on the subject, but merely remark that service of Court processes on the recognized agent is in all cases (unless the Court otherwise orders) equivalent to service on the principal. Processes served on the *pleader shall* be *presumed* to be duly communicated to the principal, and (in the absence of a contrary order of Court) shall be as effectual as personal service. (Section 40.)

Pleaders and others, but not Advocates of any High Court must file written authorities. (Section 39).

In case Government is a party or Government has to be served with a civil process, there are special rules, and I shall reserve the details to a special section on Government suits, and meanwhile go on so as not to break the thread of the description with the proceedings in a suit.

§ 5.—*Terms used in Civil Cases.*

The student will observe that we use different terms in civil and in criminal cases. A criminal case is a *suit*, and the trial is on the '*issues*' or points in dispute, the parties are *plaintiff* and *defendant*. In criminal matters we have a 'case,' the parties are the "prosecutor" or "complainant" (according as the case is a warrant or police or a summons case on complaint) and the "accused" or "prisoner," and the trial is on the "charge" or "complaint."

In official and other reports and correspondence, these terms should always be correctly used and distinguished.